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OFFICE OF PETITIONS

In re Application of
Levine, et al.
Application No. 09/964,384
Filed: September 28, 2001
Attorney Docket No. 20009.0054US01

**DECISION GRANTING PETITION
UNDER 37 CFR 1.137(f)**

This is a decision on the petition, filed November 15, 2004, to revive the instant nonprovisional application under the unintentional provisions of 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioners state that the instant nonprovisional application is the subject of an application filed under a multilateral international agreement that requires publication of applications 18 months after filing. However, the U.S. Patent and Trademark Office was unintentionally not notified of this filing within 45 days subsequent to the filing.

In view of the above, this application became abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country, or under a multilateral international agreement, that requires publication of applications 18 months after filing.

A petition under 37 CFR 1.137(f) must be accompanied by:

- (1) the reply which is met by the notification of such filing in a foreign country or under a multinational treaty;
- (2) the petition fee as set forth in 37 CFR 1.17(m); and
- (3) a statement that the entire delay in filing the required reply from the due

date of the reply until the filing of a grantable petition was unintentional.¹

The instant petition has been found to be in compliance with 37 CFR 1.137(f). Accordingly, the failure to timely notify the Office of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. A Notice Regarding Rescission of Nonpublication Request which sets forth the projected publication date of June 2, 2005 accompanies this decision on petition.

The application file does not indicate a change of address has been filed in this case, although the address given on the petition differs from the address of record. A change of address should be filed in this case in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record.

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3230.

This application is being forwarded to Technology Center Art Unit 2643 for consideration of the amendment filed December 17, 2004 (certificate of mailing date December 13, 2004).



E. Shirene Willis
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

ATTACHMENT: Notice Regarding Rescission of Nonpublication Request

cc: JERAMIE J. KEYS
P.O. BOX 71355
MARIETTA, GA 30007-1355

¹It is assumed that Attorney Keys has conducted an investigation and has verified that the entire delay in timely notifying the Office of the filing of the application under a multilateral international agreement was unintentional.